IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 9013 OF 2005 .

The State Central Library ... Petitioner.
V/s.
Shri Deepak Pandharinath
Shelte & anr.. .. . Respondents.

Shri D.A. Patil, AGP, for the petitioner.

CORAM : V.C.DAGA, J.

DATED : 27.4.2006.

P.C. :

. Heard learned AGP for the Petitioner-State.

. Perused petition.

2. This petition filed under Article 227 of the Constitution of India is directed against the order dated 13.9.2004 passed by the Commissioner for Workmen Compensation and Presiding Officer, 8th Labour Court, Mumbai, directing payment of50% backwages by the 2nd party i.e. State Central Library from the date of termination i.e. 30.6.1994 till the date of passing of the award.

3. Shri D.A. Patil, learned AGP appearing for the State submits that the Library part of Asiatic Society has been taken over by the State Government under section 11 of the Maharashtra Public Library Act ('The Act') with effect from 1.7.1994. He submits that respondent No.1 was appointed in 1991; whereas termination was effected by the said society

on 1.6.1994, i.e. prior to taking over; he, thus, submits that impugned order could not have been passed against the petitioner.

4. On being asked, as to the text of the take over order passed under section 11 of the Act by the State Governmnt, he could not point out the same from the record since it is not on record. He also does not have a copy thereof. As a matter of fact, in order to substantiate the contention advantage and to take it to a logical end, it was expected on the part of Shri Patil, learned AGP to file with the petition or to produce take over order passed under section 11 of the Act to demonstrate as to what were the terms and conditions of take over of the library part of the said society by the State Government. When this lapse on the part of the learned AGP was brought to his notice, it was expected on his part either to seek time to produce this document or to pray for amendment of the plaint. However, instead of following either of the route, he prayed for sending for Record and Proceedings of the Court below, without showing existence of such document on the record of the trial Court.

5. On being asked, whether or not the document exists on record of the trial Court, Shri Patil, with all rudeness at his command proceeded to state

that the Court may pass any order as it may desire. This attitude on the part of Shri Patil, AGP amounts to contempt of Court. He has no business to lose temper in the Court as a Law Officer of the State Government. Law Officer of the State when appears in the Court is expected to behave properly and should not lose his temper or use disrespectful language while arguing the matter. As a matter of fact, this is a fit matter to refer to the Bar Council of Maharashtra and Goa for disciplinary action against him. However, I deem it proper to bring this conduct on the part of the learned AGP to the notice of the Principal Secretary, Law and Judiciary Department, so as take note of the conduct of Shri Patil, learned AGP in the Court while appearing in the State brief so as to enable the State Government to deal with the situation.

6. Now, turning back to the case in hand for want of relevant material on record, it is not possible to appreciate the contention raised by the learned AGP, who is neither prepared to produce relevant document nor ready to show the take over order passed under section 11 of the Act.

7. In the circumstances, petition is dismissed in limine with no order as costs.

8. The Registry is directed to remit copy of this order to the Principal Secretary, Law and Judiciary Department, Mantralaya, Mumbai, for information, action and record.

(V.C.DAGA,J.)